

109TH CONGRESS
2D SESSION

H. R. 5254

To set schedules for the consideration of permits for refineries.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2006

Mr. BASS (for himself, Mr. BARTON of Texas, Mr. KIRK, Mrs. BONO, Mr. SHIMKUS, Mr. DEAL of Georgia, Mr. HALL, Mr. PITTS, Mr. NORWOOD, Mr. SULLIVAN, Mr. BURGESS, Mr. CHABOT, Mr. BUYER, Mr. CHOCOLA, Mr. PICKERING, Mrs. CUBIN, Mr. UPTON, Mr. JOHNSON of Illinois, Mr. GERLACH, and Mr. PORTER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To set schedules for the consideration of permits for refineries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Refinery Permit Proc-
5 ess Schedule Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

1 (1) the term “Administrator” means the Ad-
2 ministrator of the Environmental Protection Agency;

3 (2) the term “applicant” means a person who
4 is seeking a Federal refinery authorization;

5 (3) the term “biomass” has the meaning given
6 that term in section 932(a)(1) of the Energy Policy
7 Act of 2005;

8 (4) the term “Federal refinery authorization”—

9 (A) means any authorization required
10 under Federal law, whether administered by a
11 Federal or State administrative agency or offi-
12 cial, with respect to siting, construction, expan-
13 sion, or operation of a refinery; and

14 (B) includes any permits, licenses, special
15 use authorizations, certifications, opinions, or
16 other approvals required under Federal law
17 with respect to siting, construction, expansion,
18 or operation of a refinery;

19 (5) the term “refinery” means—

20 (A) a facility designed and operated to re-
21 ceive, load, unload, store, transport, process,
22 and refine crude oil by any chemical or physical
23 process, including distillation, fluid catalytic
24 cracking, hydrocracking, coking, alkylation,
25 etherification, polymerization, catalytic reform-

1 ing, isomerization, hydrotreating, blending, and
2 any combination thereof, in order to produce
3 gasoline or distillate;

4 (B) a facility designed and operated to re-
5 ceive, load, unload, store, transport, process,
6 and refine coal by any chemical or physical
7 process, including liquefaction, in order to
8 produce gasoline or diesel as its primary out-
9 put; or

10 (C) a facility designed and operated to re-
11 ceive, load, unload, store, transport, process (in-
12 cluding biochemical, photochemical, and bio-
13 technology processes), and refine biomass in
14 order to produce biofuel; and

15 (6) the term “State” means a State, the Dis-
16 trict of Columbia, the Commonwealth of Puerto
17 Rico, and any other territory or possession of the
18 United States.

19 **SEC. 3. STATE ASSISTANCE.**

20 (a) STATE ASSISTANCE.—At the request of a gov-
21 ernor of a State, the Administrator is authorized to pro-
22 vide financial assistance to that State to facilitate the hir-
23 ing of additional personnel to assist the State with exper-
24 tise in fields relevant to consideration of Federal refinery
25 authorizations.

1 (b) OTHER ASSISTANCE.—At the request of a gov-
2 ernor of a State, a Federal agency responsible for a Fed-
3 eral refinery authorization shall provide technical, legal,
4 or other nonfinancial assistance to that State to facilitate
5 its consideration of Federal refinery authorizations.

6 **SEC. 4. REFINERY PROCESS COORDINATION AND PROCE-**
7 **DURES.**

8 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

9 (1) IN GENERAL.—The President shall appoint
10 a Federal coordinator to perform the responsibilities
11 assigned to the Federal coordinator under this Act.

12 (2) OTHER AGENCIES.—Each Federal and
13 State agency or official required to provide a Fed-
14 eral refinery authorization shall cooperate with the
15 Federal coordinator.

16 (b) FEDERAL REFINERY AUTHORIZATIONS.—

17 (1) MEETING PARTICIPANTS.—Not later than
18 30 days after receiving a notification from an appli-
19 cant that the applicant is seeking a Federal refinery
20 authorization pursuant to Federal law, the Federal
21 coordinator appointed under subsection (a) shall
22 convene a meeting of representatives from all Fed-
23 eral and State agencies responsible for a Federal re-
24 finery authorization with respect to the refinery. The
25 governor of a State shall identify each agency of

1 that State that is responsible for a Federal refinery
2 authorization with respect to that refinery.

3 (2) MEMORANDUM OF AGREEMENT.—(A) Not
4 later than 90 days after receipt of a notification de-
5 scribed in paragraph (1), the Federal coordinator
6 and the other participants at a meeting convened
7 under paragraph (1) shall establish a memorandum
8 of agreement setting forth the most expeditious co-
9 ordinated schedule possible for completion of all
10 Federal refinery authorizations with respect to the
11 refinery, consistent with the full substantive and
12 procedural review required by Federal law. If a Fed-
13 eral or State agency responsible for a Federal refin-
14 ery authorization with respect to the refinery is not
15 represented at such meeting, the Federal coordinator
16 shall ensure that the schedule accommodates those
17 Federal refinery authorizations, consistent with Fed-
18 eral law. In the event of conflict among Federal re-
19 finery authorization scheduling requirements, the re-
20 quirements of the Environmental Protection Agency
21 shall be given priority.

22 (B) Not later than 15 days after completing the
23 memorandum of agreement, the Federal coordinator
24 shall publish the memorandum of agreement in the
25 Federal Register.

1 (C) The Federal coordinator shall ensure that
2 all parties to the memorandum of agreement are
3 working in good faith to carry out the memorandum
4 of agreement, and shall facilitate the maintenance of
5 the schedule established therein.

6 (c) CONSOLIDATED RECORD.—The Federal coordi-
7 nator shall, with the cooperation of Federal and State ad-
8 ministrative agencies and officials, maintain a complete
9 consolidated record of all decisions made or actions taken
10 by the Federal coordinator or by a Federal administrative
11 agency or officer (or State administrative agency or officer
12 acting under delegated Federal authority) with respect to
13 any Federal refinery authorization. Such record shall be
14 the record for judicial review under subsection (d) of deci-
15 sions made or actions taken by Federal and State adminis-
16 trative agencies and officials, except that, if the Court de-
17 termines that the record does not contain sufficient infor-
18 mation, the Court may remand the proceeding to the Fed-
19 eral coordinator for further development of the consoli-
20 dated record.

21 (d) REMEDIES.—

22 (1) IN GENERAL.—The United States District
23 Court for the district in which the proposed refinery
24 is located shall have exclusive jurisdiction over any
25 civil action for the review of the failure of an agency

1 or official to act on a Federal refinery authorization
2 in accordance with the schedule established pursuant
3 to the memorandum of agreement.

4 (2) STANDING.—If an applicant or a party to
5 a memorandum of agreement alleges that a failure
6 to act described in paragraph (1) has occurred and
7 that such failure to act would jeopardize timely com-
8 pletion of the entire schedule as established in the
9 memorandum of agreement, such applicant or other
10 party may bring a cause of action under this sub-
11 section.

12 (3) COURT ACTION.—If an action is brought
13 under paragraph (2), the Court shall review whether
14 the parties to the memorandum of agreement have
15 been acting in good faith, whether the applicant has
16 been cooperating fully with the agencies that are re-
17 sponsible for issuing a Federal refinery authoriza-
18 tion, and any other relevant materials in the consoli-
19 dated record. Taking into consideration those fac-
20 tors, if the Court finds that a failure to act de-
21 scribed in paragraph (1) has occurred, and that such
22 failure to act would jeopardize timely completion of
23 the entire schedule as established in the memo-
24 randum of agreement, the Court shall establish a
25 new schedule that is the most expeditious coordi-

1 nated schedule possible for completion of
2 preceedings, consistent with the full substantive and
3 procedural review required by Federal law. The
4 court may issue orders to enforce any schedule it es-
5 tablishes under this paragraph.

6 (4) FEDERAL COORDINATOR'S ACTION.—When
7 any civil action is brought under this subsection, the
8 Federal coordinator shall immediately file with the
9 Court the consolidated record compiled by the Fed-
10 eral coordinator pursuant to subsection (c).

11 (5) EXPEDITED REVIEW.—The Court shall set
12 any civil action brought under this subsection for ex-
13 pedited consideration.

14 **SEC. 5. DESIGNATION OF CLOSED MILITARY BASES.**

15 (a) DESIGNATION REQUIREMENT.—Not later than
16 90 days after the date of enactment of this Act, the Presi-
17 dent shall designate no less than 3 closed military installa-
18 tions, or portions thereof, as potentially suitable for the
19 construction of a refinery. At least 1 such site shall be
20 designated as potentially suitable for construction of a re-
21 finery to refine biomass in order to produce biofuel.

22 (b) REDEVELOPMENT AUTHORITY.—The redevelop-
23 ment authority for each installation designated under sub-
24 section (a), in preparing or revising the redevelopment

1 plan for the installation, shall consider the feasibility and
2 practicability of siting a refinery on the installation.

3 (c) MANAGEMENT AND DISPOSAL OF REAL PROP-
4 ERTY.—The Secretary of Defense, in managing and dis-
5 posing of real property at an installation designated under
6 subsection (a) pursuant to the base closure law applicable
7 to the installation, shall give substantial deference to the
8 recommendations of the redevelopment authority, as con-
9 tained in the redevelopment plan for the installation, re-
10 garding the siting of a refinery on the installation. The
11 management and disposal of real property at a closed mili-
12 tary installation or portion thereof found to be suitable
13 for the siting of a refinery under subsection (a) shall be
14 carried out in the manner provided by the base closure
15 law applicable to the installation.

16 (d) DEFINITIONS.—For purposes of this section—

17 (1) the term “base closure law” means the De-
18 fense Base Closure and Realignment Act of 1990
19 (part A of title XXIX of Public Law 101–510; 10
20 U.S.C. 2687 note) and title II of the Defense Au-
21 thorization Amendments and Base Closure and Re-
22 alignment Act (Public Law 100–526; 10 U.S.C.
23 2687 note); and

1 (2) the term “closed military installation”
2 means a military installation closed or approved for
3 closure pursuant to a base closure law.

4 **SEC. 6. SAVINGS CLAUSE.**

5 Nothing in this Act shall be construed to affect the
6 application of any environmental or other law, or to pre-
7 vent any party from bringing a cause of action under any
8 environmental or other law, including citizen suits.

9 **SEC. 7. REFINERY REVITALIZATION REPEAL.**

10 Subtitle H of title III of the Energy Policy Act of
11 2005 and the items relating thereto in the table of con-
12 tents of such Act are repealed.

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